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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,348	08/31/2001	Thomas P. Ivanyi	43868.010200	9772
23363 7590 08/28/2008 CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068				
EXAMINER SCHNURR, JOHN R				
ART UNIT 2623		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/944,348

Applicant(s)

IVANYI, THOMAS P.

Examiner

JOHN R. SCHNURR

Art Unit

2623

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 83-88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 83-88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/13/2008 has been entered.

DETAILED ACTION

2. Claims 83-88 are pending and have been examined.

Terminal Disclaimer

3. The terminal disclaimer filed on 06/13/2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6,286,140 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Response to Arguments

4. Applicant's arguments with respect to claims 83-88 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims **83-88** are rejected under 35 U.S.C. 102(e) as being anticipated by

Alexander et al. (US Patent 6,177,931), herein Alexander.

Consider **claim 83**, Alexander clearly teaches a system for uninterrupted and passive continuous monitoring and measuring viewer behavior of a plurality of television viewers and pattern data among viewer events and channel change events in a plurality of viewing premises to provide information for direct correlation with concurrent detailed data of programming and broadcasting in order to analyze and ascertain the responses of the plurality of viewers to program and advertising content for the purpose of assessing the effectiveness of said programming and advertising content, wherein the results of said analysis can be made available to advertisers, said system comprising:

a plurality of signal receiving devices located in a plurality of viewing premises **(The invention is a television system, which includes a plurality of receiving devices located in a plurality of viewing premises.)**, wherein each said signal receiving device comprises:

a monitor device for uninterrupted and passive continuous monitoring of television viewer behavior, **(Information about the viewer is captured on a continuous basis, col. 29 lines 22-30.)** the monitor device configured for monitoring event data generated upon occurrence of television viewer events and channel change events to ascertain television viewer behavior and pattern data among television viewer events and channel change events on the continuous basis; **(Channel changes and viewer events are monitored and recorded on a continuous basis, col. 28 lines 30-52.)**

an event timing device for recording a time record of event occurrence and for generating time-stamped data representative of time of occurrence corresponding to the event data; **(col. 28 line 35)**

a data latching device for continuous capturing and storing of the time-stamped data and the event data; **(col. 28 lines 32-35)**

a database for storing the time-stamped data and event data captured and stored by the data latching device. **(The EPG records time-stamped data and various other user data, col. 28 lines 30-67.)**

Consider **claim 84**, Alexander clearly teaches television viewer events comprise at least one of change of volume level, change of mute status, and change of signal receiving device status. **(col. 28 lines 46-49)**

Consider **claim 85**, Alexander clearly teaches television viewer events are actions by the television viewer to change volume level. (**col. 28 lines 46-49**)

Consider **claim 86**, Alexander clearly teaches each signal receiving device further comprises a receiver for receiving television signals. (**col. 3 lines 3-4, 23-25 and col. 5 lines 47-53**)

Consider **claim 87**, Alexander clearly teaches a transmitter for providing television signals for a television. (**col. 3 lines 3-4, 23-25 and col. 5 lines 47-53**)

Consider **claim 88**, Alexander clearly teaches a further transmitter for transmitting information reflecting viewer behavior. (**col. 29 lines 14-20**)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN R. SCHNURR whose telephone number is (571)270-1458. The examiner can normally be reached on Monday - Friday, 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRS

/Hunter B. Lonsberry/
Primary Examiner, Art Unit 2623